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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,540	03/08/2002	Tatsunori Kanai	220436US2RD	8911

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EXAMINER	
LIM, KRISNA	

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/092,540	KANAI ET AL.	
	Examiner	Art Unit	
	Krisna Lim	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,11-14,17-24,27-30,33,35,36,38,39,41,42 and 44* is/are rejected.

7)☒ Claim(s) *9-10, 15-16, 25-26, 31-32, 34, 37, 40 and 43* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

TR

1. Claims 1-44 are presented for examination.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-8, 11-14, 17-24, 27-30, 33, 35, 36, 38, 39, 41, 42 and 44 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 6-11 of copending Application 10/094,462 (hereinafter it is referred to the copending application). Although the conflicting claims are not identical, they are not patentably distinct from each other

because both applications, US application serial no. 10/094,462 and the present U.S. application serial no. 10/092,540, are directed to the a data transfer device for receiving first data transmitted from a first communication device, transmitting the first data to another data transfer device connected to a second communication device that is a destination of the first data, receiving second data transmitted from the second communication device from the another data transfer device, and transmitting the second data to the first communication device that is a destination of the second data, the data transfer device comprising (e.g., see the first 11 lines of both applications are identical word by word): a) a reception unit, b) a cache unit, c) a processing unit and d) a transmission unit. The reception unit, the cache unit and the transmission unit and their functions of both applications are the same.

I. As to claims 2 and 18 of the present invention are the same as the claim 2 of the co-pending application.

II. As to claims 3 and 19 of the present invention are the same as the claim 3 of the co-pending application.

III. As to claims 4, 12-14, 20 and 28-30 of the present invention are the same as the claim 6 of the co-pending application.

IV. As to claims 5 and 21 of the present invention are the same as the claim 7 of the co-pending application.

V. As to claims 6 and 22 of the present invention are the same as the claim 8 of the co-pending application.

VI. As to claims 7 and 23 of the present invention are the same as the claim 9 of the co-pending application.

VII. As to claims 8 and 24 of the present invention are the same as the claim 10 of the co-pending application.

VIII. As to claims 11 and 27 of the present invention are the same as the claim 11 of the co-pending application.

As to the independent claims 1 and 17, the difference between the present applicant and the other co-pending application is the additional language of "when the first data name is not registered in the cache unit, while carrying out a processing for transmitting a compressed data in which the first data is expressed by setting at least one cache data registered in the cache unit as reference data and utilizing a cache data name corresponding to the reference data when the first data can be expressed in a compressed form, or a processing for transmitting the first data when the first data

cannot be expressed in the compressed form, upon receiving the first data transmitted from the first communication device;" of claim 1 of the copending application.

The scope of claims 33, 35, 36, 38, 39, 41, 42 and 44 are similar in scope of the combination of claims 1-8, 11-14, 17-24, 27-30 of the present invention. Thus, they are also rejection for the same reason as in claims 1-8, 11-14, 17-24 and 27-30.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 9-10, 15-16, 25-26, 31-32, 34, 37, 40 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5.The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references are cited in the Form PTO-892 for the applicant's review.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956

The examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

May 15, 2005

